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**Abstract:** This article examines the practice of personal loyalty to superiors at the workplace, in general, and in criminal justice agencies, in particular, agencies. While the practitioners are taught that their primary loyalty is to the United States Constitution, State laws, departmental rules and regulations, they are culturally made aware that personal loyalty to their superiors is paramount if they wanted their career to continue and prosper. As a result many practitioners are confused (even paranoid) as to who or what to be primarily loyal to, and at what price. This practice seems to have been behind numerous acts of malfeasance and misfeasance; it lowers the workers' moral, confuses the practitioners, and destabilizes the agency's function.

This article explains the advantages and disadvantages of personal loyalty to superiors, in general, and in criminal justice. It examines three types of workplace loyalties, and suggests - as an attempt for reform - the use of a more sensible duty-based paradigm. This paradigm is based on three practical propositions: (1) replacing the language of "loyalty" with a less threatening term such as "collaboration or cooperation" (2) strengthening dutiful supervision; and (3) maximizing professional accountability.

# Demythologizing Personal Loyalty to Superiors

## Overview

This paper is constructed in the Cartesian tradition of skepticism and complemented by a Humeanian strand of “New Scenes of Thought” (Lavine, 1984, P.153, P.148). Its subject matter is both critical and stubborn—a possible reason, perhaps, why relatively fewer writers addressed it. Those who did include Drucker, 1974; Ewin, 1993; Fletcher, 1993; Kleinig, 1994; and Souryal 1999. This author hopes the criminological community will consider a logical debate over the controversial, yet unexamined role of *personal* loyalty in public and private organizations. The paper’s logic, provocative as it may be, is also designed to expose the truth of such an ancient legacy that still clings to medieval learning and church teachings. Like theology, leadership, and romance, the subject of *personal* loyalty in superiors is hard to define and harder still to disavow lest one be accused of administrative blasphemy. As evidence of its controversiality, consider in ancient Christian history when both Peter and Judas betrayed The Christ for different loyalties, (i.e., the former to save his life and the latter to enrich his life by serving his handlers)—all while other disciples accepted death for not recanting their loyalty to The Christ. It might be also significantly interesting to note that the United States’ Founding Fathers never mentioned the word loyalty in the Constitution nor in any laws they promulgated when it indeed would have been highly relevant.

This article is by no means designed as a wrecking ball to the ideal of loyalty to God, country, family, spouse, friends, even superiors—if both parties maintained a mature relationship. In the bureaucratic tradition, superiors and subordinates are technically subject to the same set of rules and regulations, disciplinary actions, and the obligation to act in good faith. Under these conditions, superiors and subordinates—regardless of position, rank, or status—need *only* to perform their duties according to work standards, and no amount of *personal* loyalty to superiors should make them more or less loyal.

Leading this deterministic view is Peter Drucker, (1974) the prophet of management, who wrote: “employment is a specific contract calling for specific performance, and for nothing else...any attempt of any employer to go beyond this is usurpation. It is immoral as well as illegal intrusion of privacy...an employee owes *no loyalty*, he owes *no love*, he owes *no*

*attitude*—he owes performance and nothing else.” Other organizational theorists were less absolutist than Drucker. For instance, Denhardt (1987) equated loyalty in public organizations with images of death and slavery, and Ewin (1993) proposed it be outright ignored. Based on Drucker’s absolutist position (and the others mentioned above), it might be safe to hypothesize that public agencies, in general, and criminal justice agencies, in particular, which allow, tolerate, or encourage *personal* loyalty to superiors are either managerially misinformed (e.g. ignorant of the principles of merit, fairness, responsibility and accountability), or they are disingenuous because, despite their prior knowledge, they continue to consider *personal* loyalty to themselves more important than to fair management, merit considerations, and the subordinate’s right to legitimately pursue excellence. At this junction, it might be also safe to characterize the unrecognized variable of *personal* loyalty to superiors, especially if prevalent, as a cancer that mutates in the “flesh and bones” of agencies causing them to eventually succumb to ineffectualness, lethargy, and corruption.

The main purpose of this paper is threefold: (1) to raise awareness to the potential dangers of *personal* loyalty to superiors (rather than to the organization itself, the profession, the Supreme Court rulings, and, of course, the Constitution); (2) to liberate the subordinates from the proverbial subservience to superiors; and (3) to unleash the subordinates’ capacity to investigate and reason in a manner that follows a harmonious order of legal, logical, and ethical principles. The situation, of course, can be terribly awkward if the superiors themselves enticed, solicited, or demanded such loyalty (which not infrequently occurs), leading the organization to lose dimension of what makes its legitimate.

In the final analysis, the central question in this article is to determine whether *personal* loyalty to superiors has a place in criminal justice bureaucracies, and if so, to whom, to what, and at what price?

### **Three preliminary Assumptions**

The reader should first be apprised of three logical observations associated with the principle of loyalty and loyalties in public organizations. *First*, the *original condition* (Hume’s expression) of loyalty has little to do with objectivity and more to do with ingrained prejudice. Historically, it thrived when individuals and groups supported a tribal chief, an orator cleric, or a sacrosanct tradition without fully understanding the reasons and consequences of such a belief. That is probably one reason, Islamic terrorists are among the hardest to change and the most

resistant to accepting modernity and democracy. *Second*, while the readers might rightfully assume that the practice of *personal* loyalty to superiors is a standard behavior common to all bureaucracies (e.g., hospitals, universities, prisons, or even religious institutions), one should be cautioned that—even if it is true—such a practice in the field of criminal justice, especially under unsavory superiors, can cause horrendous harm to individuals, groups, and even nations. Criminal justice subordinates might—under the influence of *personal* loyalty to superiors—violate people’s constitutional rights, cover up corruption, ostracize minority groups, perjure themselves in court, or torture inmates in prison on a scale not possible in non-criminal justice agencies. *Third*, any type of loyalty is ostensibly a “double power game” (Morris, 1997, p 33). Morris’s term can be simply translated as “to the extent something has power for good, it has corresponding power for ill.” As evidence of that, loyalty was equally capable of bringing about perpetual happiness (e.g., loyalty to liberty and justice) and of inflicting disastrous pogroms (e.g., loyalty to the Nazi or Fascist parties). This factor alone might underscore the urgent need to debate the subject of *personal* loyalty to superiors especially in light of Manning’s (2007: 6) stern caution that *personal* loyalty to superiors (as demonstrated during the Nuremberg trials) was a main cause for the rise of the Nazi policing system in Germany

### **The Ambivalent Nature of Loyalty**

Loyalty is a mercurial and ambiguous sentiment. Konvitz (1973,108) defined it as "a virtue, a state, or a quality of being faithful to one's commitments, duties, relations, associations, or values. He added that at the core of the virtue of loyalty is fidelity—is keeping one’s promise and never unjustifiably violating agency rules. Fletcher (1993, p, 171) defined loyalty as "a life in which interaction with others becomes the primary means for solving problems." Ewin (1993, 36) referred to it as "an emotional tie that can lead people to be unreasonable and to overlook or override proper claims on them." Yet Fletcher also exposed loyalty's fundamental bias by pointing out that "by definition, [loyalty] generates interest, partiality, an identification with the object of one's loyalty rather than with the cause it serves" (p. 57). Then there were Hume (the paramount skeptic) and Blamires (the perpetual pessimist). The former defined loyalty as "a virtue that holds less of reason than of bigotry and superstition" (as cited in Kleinig, 1996,70) and the latter likened loyalty to an intoxicant: "we breathe the word loyalty and immediately a sentimental warmth floods our minds" (as cited in Souryal, 1999, 46). He further added (p. 47)

that loyalty, in and by itself, “represses individuality, encourages isolationism, and prohibits the circulation of fresh and useful ideas...it parcels out the soul of workers by subverting their professional responsibility.” In criminal justice agencies, Souryal (1999, 57) defined *personal* loyalty to superiors as “the workers’ obligation to submit to superiors, do what it takes to protect their interests without exposing themselves to significant danger.”

In light of these contradictory characterizations, it is not surprising that many unenlightened criminal justice superiors attempt to cultivate (rather recruit) *personal* loyalty from subordinates as a matter of self-protection should they (the superiors) be accused of abusing authority, mishandling funds, or engaging in power struggles with rivals at the workplace. By contrast, it is also not surprising that many criminal justice subordinates are baffled: they recall their academy instructors never discussing the subject of loyalty save in the context of one another. Yet early on the job, they realize that that was not the case and that *personal* loyalty to superiors is what matters, the main key to success (Kleinig, 1996). This state of affairs makes it safe to suggest that the footprints of *personal* loyalty to superiors are initially formed by the agency’s organizational culture (Braswell, 2005, 89), Kleinig 1995, 1996; Souryal, 1999). As cases in point, one must reflect on the ongoing investigations into the alleged torture at the Abu Ghraib prison in Iraq, the circumstances leading to the investigation of Valerie Plame Wilson who worked for the CIA, and the recent firing of eight Federal Prosecutors by Attorney General Gonzales (*New York Times*, May 25, 2004, July 14, 2003, and December 7, 2006, respectively).

Torn between this dysfunctional environment and the subordinates’ mental dissonance, one can understand the reasons for resentment that professional subordinates feel in some criminal justice agencies. They suffer silently for fear of being accused of disloyalty, labeled as trouble makers, or worse: whistle blowers. Fletcher (1993, 155), the inquisitor of loyalty, describes this condition in two separate references: “we typically find ourselves in a set of intersecting circles of loyalty and commitment,” and, “such conditions typically mark a tyrannical state” (p.59). The first reference is rather restricting and the latter is dismally threatening.

### **The Machination of *Personal* Loyalty**

Lest the point is lost, *personal* loyalty to superiors can be defined as *the unspoken practice by subordinates to submit to the person of superiors, rather than to their organizational positions, with the intention of gaining more workplace privileges rather than earning such privileges by faithfully*

*contributing to the mission of the organization.* In vernacular terms, such subordinates are generically known as “good ole boys” or “good ole girls,” and their behavior is normally disparaged in more sordid terms by professional subordinates who despise such a practice.

This definition requires five agency organisms: (1) a superior with effective authority to control the behavior and the future interests of others under his/her command; (2) a subordinate who is required to obey orders received from higher sources; (3) a “special” relationship of social, intellectual, financial, religious, or sexual affinity which, unless professionally suppressed, can enhance the interests of both the superior and the subordinate; (4) an audience (usually of subordinates) who are perceptive, envious, skeptical, hostile, or merely lazy and gossipy, and (5) an organizational culture which chronicles significant experiences (both good and bad) internalized in the memory of all concerned as belief systems and used as managerial footprints for the future. The amalgamation of these five organisms defines the unique condition of the agency and its propensity to succumb to the cancer of *personal* loyalty to superiors growing in its belly.

On the other hand, when the agency’s organizational culture is skewed, its managerial pattern becomes dysfunctional. More seriously, it can cause mental dissonance to develop among subordinates who may feel they are treated unfairly, receive little or no pay raises, accused of disloyalty, concerned for their careers, or are simply ignored. Such a dysfunctional environment undermines agency productivity at two levels: *First*, by emboldening the “good ole boys” to bully the professional workers who take their job seriously and act responsibly while they have a better opportunity to commit worse corrupt acts with more impunity. *Second*, the practice of *personal* loyalty to superiors will presumptively spread through the agency encouraging disregard for rules and regulations, maintaining haughty relations between colleagues, and escalating the chances for more scandals to erupt threatening the agency’s chances to survive.

Proponents of *personal* loyalty to superiors justify—even defend—such a practice by invoking clever arguments that will be presented in the paper. Consider, for instance, the disappointment of criminal justice subordinates (e.g., police officers, jailers, correctional officers, as well as probation and parole officers). While in pre-service training they are taught to be loyal to the United States Constitution, state laws, departmental rules and regulations and professional values. Then they are systematically indoctrinated to reserve their *first and foremost* loyalty to their superiors, especially those who were responsible for hiring them in the first place.

The case of thousands of small sheriff<sup>3</sup> departments (especially those which are not covered by civil service rules) is a case in point. Given their moderate level of training and their rather huge obligation to take on risky cases, deputy sheriffs seek protection by offering their *personal* loyalty to their chief deputies and sheriffs (Hill, 2007,185). By so doing, they become almost totally dependent on these superiors. In this context, they tend to *always* support their superiors' desires, advocate their views, and acquiesce with their decisions, even if such decisions were clearly inconsistent with state or agency rules and regulations.

Loyalty is not a constant subject, otherwise it would be mere sympathy. For instance, we may sympathize with the people of Darfur but that does not mean that we are loyal to them. If there is any loyalty involved in such a case, it is indirectly through the overarching *principle of humanity*, the obligation to assist "our kind" by aiding those among us who are in a crisis. The core sentiment underlying this obligation is the recognition that humankind is our kind, and that the demise of any person diminishes us all.

*Personal* loyalty to superiors is a different species because its *original condition* is intrinsically different: (1) While the vast majority of public service subordinates consider themselves colleagues, in the competitive, stressful, and, at times unsavory workplace environments they may act like strangers to each other, if not outright enemies. (2) Subordinates as individuals do not necessarily share the same affiliations (e.g., race, ethnicity, class, or educational background). (3) Subordinates do not choose whom they work for or for how long. (4) The ideal of public service does not necessarily lend itself to the exercise of collegiality. Subordinates are required to "faithfully execute all laws" even at the cost of betraying one's loyalty to another. Indeed the role of Internal Affairs in criminal justice agencies is not to preserve loyalties, but to expose them when they act against the stated mission of agencies. and, (5) Consistent with Kant's rule of universalization, if the subordinates were to spend *all* their working time appeasing their superiors, there wouldn't be enough time to serve the agency's mission and those who need their full attention. Ironically, but rather understandably, Drucker's severe dictum against any *personal* loyalty to superiors might have been the underlying reason why both subordinates and superiors felt in need for protection by means of forming *personal* loyalty pacts, in the first place.

Consider, for instance, the troubling statements by two high-ranking criminal justice officials cited by Kleinig (1994) during a meeting. The first person stated that "when an

organization wants you to do right, it asks for your integrity; when it wants you to do wrong, it demands your loyalty." The second person stated, "when I make an appointment, I look for two things; loyalty and competence, in this order" (Klienig,1994, pp. 10-11). Unless one is a neophyte, the former statement is ethically bankrupt, and unless one is a cynic, the latter statement is a naturalistic fallacy. If these statements are accurate, then one might ask: if the value of competence is lower than the value of *personal* loyalty, how then can society be assured that its workers are competent enough to make intelligent decisions for the good of all concerned? Kleinig concluded on a more disturbing note: "the more ethically troubling implication of this citation was not what the official stated, but the fact that it was *not* too troubling to those who were present" (Kleinig, 1994, pp.10- 11). This stance can be explained in terms of while Drucker's dictum may be too Weberian to criminal justice agencies, by virtue of their constant association with criminals, and having been accustomed to the practice of *personal* loyalty over the years, they have no real aversion to it.

### **The Grammar of Workplace Loyalties**

For these reasons, it might be necessary to first acquaint public officials (especially criminal justice superiors and subordinates) with three types of workplace loyalties. These will be ranked here on a scale of their appropriateness; the first type will be the lowest and the last the highest.

***Personal loyalty to superiors*** is the lowest rung on the ladder of workplace loyalties. It is tribal in nature and constitutes the subordinates' unexamined obligation to accept, comply with, and support the superiors' needs and wishes, even when such needs and wishes are inappropriate. Examples include the obligation of police officers and correctional officers to be subservient to their sergeants, lieutenants, and chiefs. In return, there is usually the unspoken assumption that if these officers were ever in trouble (e.g., accused of making illegal arrests or roughing up an inmate), they should expect more lenient treatment (from their superiors), if any at all. The guiding statement at this level is: *for each subordinate according to his or her personal loyalty to superiors*.

***Institutional loyalty*** is the next rung up the ladder of workplace loyalties. It is organizational in nature and constitutes the subordinates' obligation to accept, comply with, and support the agency's mission and to honor its ends-means strategy. Examples include the



obligation of probation officers not to revoke a person's probation *except* when based on agency rules and regulations, professional standards, and ethically accepted practices. The officers involved are expected to objectively examine the circumstances of each case, solicit legal advice, and use justifiable judgment. The guiding statement at this level is: *for each subordinate according to his or her devotion to the agency's mission.*

***Integrated loyalty*** is the highest and most ethical level of workplace loyalties. It is idealistic in nature and constitutes the subordinates' obligation to abide, *above all else*, with the constitutional principles, the ideals of public service, and the principles of ethical management. Examples include the subordinates' obligation to honor the sanctity of life, the people's human rights to freedom and dignity, to apply justice by first securing a *bona fide* probable cause, and to act with enlightenment, compassion, and goodwill. It represents the unadulterated commitment to the doctrines of equality, impartiality, decency, and service—indeed to the basic ingredients of human civility. The guiding statement at this level is: *for each subordinate according to his or her commitment to constitutional, legal, and moral ideals.*

Honoring this grammar of loyalties can be also identified by its durability. *Personal loyalty* to superiors is rather superficial, short lived, and seldom outlives the subordinate-superior immediate relationship. *Institutional loyalty* is genuine, rational, long-lived, and lasts as long as the subordinate and the superior maintain such a relationship. *Integrated loyalty* is philosophical, enlightened, and transcendent. It continues throughout the subordinates' life regardless of which agencies they may later serve. More importantly, compliance with this grammar of workplace loyalties cannot be treated casually or chosen at will. It requires a more profound knowledge of social sciences, a tenacious concern to serve the public interest especially at a hardship, and an unwavering commitment to promote a civil community.

To institutionalize this typology, it is suggested that this grammar of workplace loyalties follow this order: (1) *Personal loyalty* to superiors, being the most harmful, temporary and volatile, should be discouraged to minimize unfairness, professional jealousy, clannishness, favoritism, bickering, and spreading rumors at the workplace. Herzberg (1976, 63) described such behaviors as hygiene factors because they can make the agency managerially sick and its workers paranoid. (2) *Institutional loyalty*, being benign, durable, and mission-based should be the main staple of everyday loyalty. It should be encouraged and under no circumstances replaced by personal loyalty. (3) *Integrated loyalty*, representing the highest level of enlightened

loyalty, should be the cornerstone of all professional and constitutional loyalties and the *summum bonum* of all workplace loyalties. It should be always admired, highly appreciated, and treated as acts of administrative supererogation. In this sense, Royce may have been prophetic when he referred to integrated loyalty as *loyalty to loyalty* (Royce, 1908).

### Six Questions to Ponder

To articulate the extent of the organizational damage that could be caused by *personal* loyalty to superiors, both subordinates and superiors should rationally ponder the following six questions:

*First*, despite the cultural prevalence of *personal* loyalty to superiors in public agencies, there is no evidence that this practice enhances agencies' productivity. Indeed it might more likely diminish it (Schulman, 2007, 14-20). This observation may also compel one to ask: "if *personal* loyalty to superiors is such a great idea, why are agency rules and regulations so reticent about it?" By the same token, if *personal* loyalty to superiors is a matter of choice, why then are those who offer it so handsomely rewarded while those who don't are not only deprived of the same but not infrequently shunned?

*Second*, the practice of *personal* loyalty to superiors ignores the fact that some superiors are not worthy of loyalty. This can be shown by the fairly large number of supervisors and administrators who are fired or disciplined every year at all levels of government. And, if that is the case, wouldn't be contradictory to expect criminal justice subordinates to be loyal to unworthy superiors, and hypocritical if they were to be compelled to do so?

*Third*, the fact that a large number of superiors treat *personal* loyalty as a one-way-street relationship (i.e., they need not return the loyalty) destroys the core of loyalty as a noble sentiment based on trust, fidelity, and reciprocity. And, since trust, fidelity, and reciprocity, in a free society, cannot be forced upon the subordinates, wouldn't that destroy the value of all other loyalties rendering them empty claims or propaganda techniques? And wouldn't that—in and by itself—further demoralize the subordinates?

*Fourth*, superiors are routinely transferred to other positions. They also resign, retire, or die. In any such case, subordinates would be at a loss as to how they should behave when the new superiors arrive. As a logical proposition, loyalty cannot be automatically transferred nor are new superiors entitled to automatic loyalty. Hill (2003, 258) points out that loyalty must be

allowed to evolve freely “as a seed grows into a tree.” Therefore, would it not be utterly foolish if subordinates were able to turn off their *personal* loyalty to an outgoing superior, and rather comical if—as if by a flicking of a light switch—turn on loyalty to the new incomer?

*Fifth*, the excuse that personal loyalty to superiors is a benign knee-jerk reaction, one that is akin to saluting commanders on military bases, is misleading. While saluting military commanders is required by military rules, *personal* loyalty to superiors is not. Furthermore, while no harm to third parties occurs when military commanders are saluted, serious harm can occur to third parties if criminal justice subordinates were to thoughtlessly comply with a superior's foolish desire. Moreover, if personal loyalty to superiors were truly intended as a reflex action (an assumption which the author rejects), wouldn't that render the entire principle of loyalty pointless?

*Sixth*, the more public agencies are subjected to external pressure (e.g., a state audit, a criminal investigation, a charge of misappropriation of funds), the more their leaders would demand *personal* loyalty from their subordinates. By contrast, no loyalty demands are normally made when the agency is functionally stable. Wouldn't that lead the subordinates to be suspicious of the true intentions of their superiors? Furthermore, wouldn't it make the subordinates suspect that they are a commodity being exploited when a catastrophe is about to occur? As a daunting illustration, consider the story of Governor Earl Long of Louisiana who, upon hearing he had just lost a favorite legislative bill by a single vote, and who, upon identifying the responsible legislator who did not vote for the bill, accused him of disloyalty. According to the story, the legislator apologetically responded "but Governor, I have always been with you when you are right." At that moment, the governor rudely interrupted: "you stupid man, I don't need you when I am right!" (Brookhiser, 2008, p. 217). Even if this story is fictitious (although it is well documented), it can more graphically demonstrate how disingenuous the practice of *personal* loyalty to superiors can be .

Based on the previous discussions, it should be safe to suggest that if criminal justice agencies are based on the principles of justice, honor, honesty, and duty, then the practice of *personal* loyalty to superiors demonstrates incoherence. This can be explained by the *primary-secondary* obligation paradigm. By virtue of their professional obligation, the subordinates' primary loyalty is to ensure that all laws are being faithfully executed and to serve the public fairly and equitably. If this is the case, then all other loyalties should be considered *secondary*.

Furthermore, if criminal justice subordinates were expected (or, worse still, required) to consider *personal* loyalty to superiors as their primary obligation, that would be undoubtedly questionable. The subordinates would be irrational if they acted on the basis of ignorance, and disingenuous if they acted on the basis of prior knowledge. In either case, the agency's integrity will be impugned, and the community will suffer.

### **The Defining Line**

Before presenting the arguments for and against *personal* loyalty to superiors, three self-evident concepts should be addressed since they are essential to understanding the analytical construct of *personal* loyalty to superiors in the organizational setting.

#### ***Contractible and Non-contractible Obligations***

The practice of *personal* loyalty to superiors should not be confused with the institutional need for control, discipline, or even with the strictest type of rules and regulations. These are, by definition, *contractible obligations*. They are embedded in the organizational structure of the agency, publicized in advance, and enforced through official rules and regulations. As such, they are *primary relationships* that are good in themselves. They are essential if the agency's structure is to be preserved and its stated goals are to be met. *Personal* loyalty to superiors, on the other hand, is a *non-contractible* obligation—one that is arguably contrived by the superiors to augment their own power. The reason behind this assertion may be the fact that for agencies to survive, they must comply with agency rules and regulations, yet when superiors and subordinates enter into *personal* loyalty pacts, they, by silent implication, agree to bend the rules and regulations, that errors would be covered up, support would always be offered, and minor misbehaviors would be quietly forgiven. The difference between these two scenarios—contractible and non-contractible obligations—is similar to requiring school children to study hard to pass the exams and to bring the teacher an apple to be treated favorably by the teacher. Using the same analogy, it would be rather naïve to believe that when police or correctional officers put their lives in danger, they would be doing that for *personal* loyalty to their superiors. It would be much more plausible to believe that when they do so, they are motivated by a professional sense of devotion that calls upon their inner strength to overcome "impossible" odds.

### ***The Primacy of Justice in the Equation of Criminal Justice***

Unlike medicine, trade, or diplomatic service, criminal justice is not just another field of public service; it is critical to maintaining justice, adjudicating suspects, and maintaining social control—activities that are fundamental to the presence of a civil society. To be legitimately able to achieve that, criminal justice subordinates should always uphold the ideals of freedom, equal protection, and due process—basic values that are inextricably associated with the primacy of justice. Accordingly, no work value should be considered any higher than the principle of justice, including, of course, *personal* loyalty to superiors. Furthermore, if criminal justice subordinates were to be persuaded (or worse compelled) to massage the truth or to bend the rules to “keep the bosses happy,” the entire field of criminal justice would be endangered and the *summum bonum* of the doctrines of criminal justice compromised.

### ***The Imperative of Preserving Democracy***

In a free society, any governmental branch that condones *unrestricted* submission to an individual or a minority of individuals, whether they are governors, mayors, or chief administrators, undermines society's democratic values. While totalitarian and fascist governments are extreme cases, the principle is, nevertheless, the same. Consider, for example, the public embarrassment the United States government underwent because of the Abu Ghraib and Guantanamo scandals, the embarrassment of the Los Angeles police department because of the Rodney King case, and the embarrassment of the New York City police department because of the Louima Abner case. In each of these cases, it seems safe to assume that democracy would have been far better served had the subordinates been far more loyal to the constitutional obligations enshrined in the Bill of Rights than to the dictates or desires of their superiors.

### **Arguments In Favor of *Personal* Loyalty to Superiors**

Proponents of *personal* loyalty to superiors argue that this practice is essential for three reasons: (1) it inhibits organizational disloyalty; (2) it bolsters the agency's chain of command; (3) it enhances institutional responsibility; and (4) it motivates the subordinates to foster supererogation. Each of these arguments will be discussed in the following section.

### ***Personal Loyalty to Superiors Inhibits Organizational Disloyalty***

This view assumes that if subordinates owed no *personal* loyalty to their superiors, they would owe no loyalty to the organization. This logic is inaccurate for three reasons: *First*, the superiors are only tools for achieving organizational ends. The end, in this case, is the department itself. Therefore, withholding *personal* loyalty from the former is not denying loyalty to the latter. *Second*, the sentiments of loyalty and disloyalty are not mutually exclusive since the opposite of loyalty is *not* disloyalty, but *the absence of loyalty*, and the opposite of disloyalty is *not* loyalty, but *the absence of disloyalty*. Consequently, the absence of *personal* loyalty cannot constitute evidence of disloyalty (which is basically professional betrayal). For instance, one can have personal loyalty to a political party without wanting the opposing party to perish. By the same token, along the continuum of loyalty-disloyalty, there is a middle mass of subordinates who are better known as a-loyals. These subordinates are fairly independent, strong, and devoted to carrying out their official duties to the best of their abilities without having to entangle themselves in any political squabbles including loyalty pacts. In a meta-ethical sense, a-loyal criminal justice subordinates may be even more loyal to the organization itself because they endorse institutional or integrated loyalties. *Third*, the claim that *personal* loyalty to superiors can inhibit organizational disloyalty does not explain the ever-increasing "whistle blowing" phenomenon whereas a-loyal workers publicly denounce *personal* loyalties in favor of what they consider loyalty to the organization or the community they serve. As a case in point, Frederic Whitehurst, an FBI forensic scientist, in 1995, blew the whistle to call attention to the problems in the FBI crime lab. When he was accused of disloyalty, he defended himself by invoking his loyalty to higher loyalties—ones he accused his superiors of ignoring. Whitehurst's act of a-loyalty indeed ended up as an act of supererogation, and the FBI crime lab underwent monumental reforms.

### ***Personal Loyalty to Superiors Bolsters the Agency's Chain of Command***

This view suggests that building a chain of *personal* loyalty to superiors can strengthen the agency's chain of command. While this argument sounds plausible, it is flawed for two reasons. *First*, it is self-evident that a chain of command does not necessarily coincide with a chain of loyalty—command is a body of rules, but loyalty is a body of sentiments. A soldier may legitimately preserve the chain of command out of organizational discipline without

necessarily being *personally* loyal to the unit's commanders. The case of Benedict Arnold may be the most infamous example. While he was always faithful to George Washington's chain of command, when the opportunity availed itself to defect he totally discarded his *personal* loyalty to his beloved army's chief commander. By the same token, during the Vietnam War, many dissatisfied soldiers—while maintaining their chain of command—held little *personal* loyalty to their commanding officers. Many such commanders were intentionally killed by their own subordinates who felt these commanders failed to reciprocate their loyalty.

Even if a tight chain of command was possible, loyalty chains invariably break when power arrangements change from within or without, when supervisors are hired laterally, or when professional jealousy and personal conflicts permeate the ranks. For example, when a correctional lieutenant is promoted to the rank of assistant warden, creating a situation whereas her former captain now serves under her command, the existing chain of *personal* loyalty must change. *Second*, even if a perfect chain of loyalty existed, the agency's integrity would be only as strong as the integrity of its weakest link. To make the point clearer, if the chain of command argument is perfect, then technically no acts of disloyalty could ever be committed by any middle manager, deputy director, or assistant bureau head. Yet, such acts routinely occur without any noticeable loss of agency efficiency. The case of chief deputies who run for office against their own sheriffs is a poignant case in point.

### ***Personal Loyalty to Superiors Fosters Supererogation***

According to this view, *personal* loyalty obligates workers to perform supererogatively—above and beyond the call of duty. The idea of supererogation lies in Christian theology, particularly the story of the Good Samaritan who paid the innkeeper "over and above for taking care of the robbed and wounded man" (Heyd, 1982, p. 18). Typically, supererogatory acts are seen as "saintly and heroic, those in which people make sacrifices to achieve a morally good end" (Heyd, 1982, p. 118). However, with the exception of police and correctional officer, perhaps, most supererogatory deeds in criminal justice are relatively minor acts, such as staying after hours to finish paperwork or perform extra tasks that are not specified in the work contract (Souryal, 1999).

Although supererogation is an admirable virtue, there is no evidence that supports the view that supererogatory acts by criminal justice subordinates are essentially due to *personal* loyalty

to superiors. It is implausible to suggest, for instance, that when correctional officers risk facing armed rioting inmates they would be doing so because of their *personal* loyalty to any specific supervisor. It would be much more logical to argue that they do that only out of reverence to duty.

One should also realize that not all supererogatory acts are considered worthy acts. Some may be arbitrary or even foolhardy. Consider, for example, the famous last stand of General Custer. Was his decision to fight until death an act of supererogation, or was it a strategically misguided decision? Was it more consistent with proper military rules or just a product of his personal egoism? And, finally, was it even worth doing? In light of these questions, one might legitimately conclude that supererogatory acts in criminal justice may have nothing to do with *personal* loyalty to superiors and everything to do with one's commitment to act or not to act.

### **Arguments Against *Personal* Loyalty to Superiors**

Since no empirical research exists concerning this specific topic (*personal* loyalty to superiors), to examine the truth of the matter, only logical and historical methods will be used. From a logical perspective, it seems fair to conclude that when *personal* loyalty to superiors eclipses the subordinates' obligation of *institutional loyalty* (e.g., professionalism, fairness, duty), the agency loses its legal equilibrium, and when it eclipses the subordinates' obligation of *integrated loyalty* (e.g., reason, justice, honesty, civility), it loses its moral equilibrium. In either case, agencies may act irresponsibly, creating as many illegal or immoral behaviors as they can create appropriate and professional ones. Evidence of this can be easily seen in the seeming inability of many criminal justice agencies to prevent the abuse of force, violations of the Constitution, involvement in drug distribution, and committing acts of racism, cronyism, and abuse of power. (Ewin, 1993, 36). And if that is an accurate illustration of the agencies, then *personal* loyalty to superiors should be considered a non-factor.

From a historical perspective, most of the governmental scandals our nation has endured in recent time (e.g., Abu Ghraib, Guantanamo, Water Boarding, Enron, Foreclosures) have essentially been products of *personal* loyalty to superiors. The subordinates indicted in these scandals chose the lure of *personal* loyalty to superiors over the maxims of constitutional principles, public duty, and institutional integrity. Although critics may blame this on outside political pressure, the fact remains that most such pressures could have been expediently



ameliorated if the subordinates themselves were better educated in the logics of institutional and integrated loyalties. The case of President Nixon is a *cause célèbre*. In 1972 Richard Nixon demanded the dismissal of Archibald Cox, the special Prosecutor in the Watergate Affair. His demand was rejected by both Attorney Generals Elliot Richardson and Assistant Attorney General William French Smith. These two officials chose to resign in protest alerting the Congress and the nation to the dangerous constitutional standoff. Like many others, perhaps, they could have granted the President his wish without any risk to their careers. Indeed, they might have been rewarded handsomely for doing so. Nevertheless, they chose to exercise *integrated loyalty*. As a result, what was politically labeled America's Saturday Night Massacre turned out to be its defining moment.

### **The Physiology of *Personal* Loyalty to Superiors**

Criminal justice subordinates are the most powerful (and at times, the most lethal) public servants in the United States. As such, they should be more aware of issues of loyalty and loyalties within their agencies than their counterparts in other public agencies. When they make an arrest, lock up an inmate, or revoke a probation, they are inevitably reminded of where their primary loyalty lies: to the Constitution, the community, the public good, agency rules, their bosses, their partners, or to themselves. While several of these loyalties may compete with each other, subordinates must be able to “*verstehen*” [Weber’s postulate for understanding with a commitment to assist in a sympathetic and noble manner] (Wrong, 1970,19). Also, while politics at the workplace can admittedly blur the subordinates’ ability to navigate where their loyalties lie, agency leaders should take the time and energy to educate their subordinates on the role of loyalty in the organizational culture, the dangers of *personal* loyalty to superiors, and the moral courage associated with institutional and integrated loyalties. Through real or fictitious experiences, the subordinates should be made aware that *personal* loyalty to superiors can be antithetical to the agency’s mission, while institutional and integrated loyalties epitomize the values of enlightenment, professionalism, moral courage, and progressiveness.

On the practical side, it is not hard to realize that concern for *personal* loyalty to superiors does enter into the vast majority of decisions the subordinates make. Almost subconsciously, the subordinates ask themselves if they did this or that, whom will they please, and whom will they offend; who will support them and who will denounce them; and, inescapably, whether their

careers will prosper or suffer as a result. To articulate this point, consider, for example, the symbolic, yet not uncommon, case of a police officer who pulls over a female driver for speeding and who, upon questioning her, recognizes her as the police chief's daughter. The officer will typically agonize over the high probability that the chief will have a negative reaction, whereas if the driver was another person, he would not.

From an ethical perspective, the police officers' decision to investigate a crime scene naturally depends on the gravity of the offense, departmental rules and regulations, the officers' sense of experience, and their trust in their department's sense of fairness. The issue of *personal* loyalty to superiors is never mentioned in this configuration. Ethical police officers are content with this argument because it represents their devotion to professionalism, to their character, and to the truth.

### **The Goliath of Disloyalty**

Issues of *personal* loyalty to superiors create a clash between two moral senses: *commitment to the sanctity of public service* and *loyalty to ones superiors*, those who control the worker's destiny. Resolving this clash is critical to the construction of the social reality at the workplace. Kleinig describes this clash as a form of psychological dismemberment; one that can cause delusions and undermine the workers' self-esteem). If such a conflict is not resolved, "moral schizophrenia" may set in turning hard-working subordinates into confused and disoriented mercenaries (Souryal, 1999).

The strain of this moral schizophrenia can be enormous and, if untreated, can diminish productivity, increase cynicism, encourage corruption, and cause psychological depression. Because of its slow radiation nature, few subordinates may realize its debilitating effect. It is not atypical that after a scandal erupts at work, the subordinates find it necessary to communicate their fears surreptitiously during lunch or coffee breaks or hide themselves behind their locked office doors. The resulting condition is a lingering "internal bleeding" that saps institutional integrity and diminishes the moral stamina of the workers. One of the more stressful slow-radiation conditions at the workplace, perhaps, is the subordinates' fear of losing their jobs under the threat of being accused of disloyalty. Under such circumstances, it would be almost impossible for the subordinates to defend themselves by administrative means or to restore their reputation through judicial recourse.

Historically, disloyalty has been recorded as the most shameful of defections. Kleinig (1995, 122) describes disloyalty as "the forsaking of an object of loyalty for self-serving and individualistic or self-assertive reasons." In this context, it seems clear that disloyalty is an ethical rather than a legal concept—one that is seen as *an act of social or occupational betrayal*. Subsequently, disloyal subordinates are normally considered pariahs, and their chances for survival on the job are demonstratively low.

In management literature, being accused of disloyalty is one of the most serious and frightening events, if for no other reason than the nebulousness of the accusation. This is due, in part, to the previously stated misuse of the dichotomous rule: the opposite of loyalty is *not* disloyalty, thus disloyalty to a superior may have little or no effect on one's loyalty to the organization. Indeed, as Thomas Jefferson once suggested, an act of a-loyalty every now and then may have a healthy effect on the organization. It reminds the subordinates of the value of integrated loyalty; one that signifies "safeguarding lives and property, protecting the innocent against deception, and the weak against oppression or intimidation" (Law Enforcement Code of Ethics, 2000).

To avoid the accusation of disloyalty to superiors, many criminal justice subordinates play the "personal-loyalty card" to protect themselves. Some find it safer to adopt a self-protective mode simply by acting more like orderlies to powerful superiors. Morris (1997, 123) described that mode profoundly when he stated "like turtles, they crawl into their shells and hide." On the other hand, adopting such a mode can bring shame on the practitioner and devolve into acts of self-humiliation and embarrassment (Denhardt, 1987).

To better understand issues of loyalty and disloyalty at the workplace, it might be fair to suggest that the dichotomous rule of loyal-disloyal be replaced by a modified version of Drucker's dictum [the modification is mine]: *Subordinates can neither be considered loyal or disloyal to their agencies as long as they fully accomplish their legal and moral obligations, nor should they be blamed for respectfully detaching themselves from superiors who may be unprofessional, unenlightened, or seek to serve their own interests.* Unless the previously modified Drucker's dictum is seriously considered, it should be safe to believe that a-loyal criminal justice subordinates are not careless individuals but may well be far more professional because they are motivated by a higher set of loyalties.

## Recommendations and Conclusions

To discourage the practice of *personal* loyalty along with the discussed problems associated with it, it seems logical to invoke the ideals of *duty* and *public service*, respectively. Dutifulness is *the workers' obligation to do the best they possibly can do in the service of their publics rather than themselves or each other* (Souryal, 1999). In Kantian terms, dutifulness is then a "categorical imperative," since it consists of ethical ideals that are abstract, objective, and universally recognized. Furthermore, since dutifulness commits subordinates to carrying out their assignments as binding legal and moral contracts, by virtue of these contracts, they would have little or no incentive to compromise themselves by seeking *personal* loyalty to superiors rather than devoting themselves to institutional and integrated loyalties.

The duty-based proposition consists of two metaphorical "lungs." The choice of the word lungs is here necessary since it is associated with the idea of systematically working in unison, one cannot work against the other. These lungs are *professional accountability*, and *organizational identification*. The former reinforces compliance with agency rules and regulations, the latter preserving individual responsibility. The former focuses on *procedural* matters, the latter on *substantive* matters. The former signifies *policy* decisions, the latter *discretionary* decisions. Working in unison, the "lungs" can maximize productivity without requiring the subordinates to engage in any unnecessary pacts with superiors. To incorporate this duty-based thesis, four managerial changes should be considered:

***First, the use of the term "loyalty-disloyalty" should be as much as possible replaced by a less confrontational term, one conducive to a smoother association between superiors and subordinates.***

Loyalty, especially at the workplace, is an emotionally charged word. It implies "taking sides," "offering one's all," "supporting one's camp at any price," and, in extreme cases, engaging in a "*jihad*". Although the perceptions associated with these terms can enable the subordinates to separate acceptable behaviors from unacceptable behaviors, they also lead to irrational and dangerous conclusions (Zerubavel, 1991). The workers may be persuaded to see the workplace as consisting of opposing camps: those who are "in the social cluster" and those "outside the social cluster"; those favored "regardless of what they do" and those disfavored "despite what they do"; and possibly between those who "deserve justice" and those "who deserve it not." And since the essence of public administration (let alone criminal justice) is optimal functionality,

then all such perceptions, even if accurate, can cause unnecessary occupational friction and hostility that, in turn, can diminish work productivity, regardless of who wins and who loses.

***Second, the culture of criminal justice agencies should be open, vibrant, and sensible.***

Although stressful at times, the culture of criminal justice, by virtue of its nature, should be the most likely field of liberal arts to embrace the principles of veracity, impartiality, tolerance, and good faith. Subsequently, in lieu of the *personal* loyalty paradigm, criminal justice agencies should use concepts such as collaboration, cooperation, and mutual support. Such concepts have a favorable sociological effect that can unite workers and superiors in a social entity that transcends obsession with ranks, cliques, antipathies, salutations, and loyalties and betrayals.

***Third, dutiful supervision should be strengthened.***

The ideal of duty suggests that when criminal justice subordinates make procedural decisions, they should act consistent with agency rules and regulation. Yet, for this to occur, a thorough system of "dutiful supervision" should be in place. Supervisors should devise reasonable standards, apply fair sanctions, exercise appropriate discretion, and, when necessary, get rid of "uncooperative" workers. Dutiful supervision also cannot be performed in a Kantian context; it requires human concern, one that can stimulate the sentiments of self-control, responsibility, accountability, and good faith (Wilson, 1993). Furthermore, for such a recommendation to succeed, an assumption of fairness must first pervade the workplace culture. The absence of such an assumption can be calamitous to any criminal justice agency regardless of which loyalty level it embraces.

***Fourth, professional accountability should be maximized.***

When criminal justice subordinates make discretionary decisions, they should—above anything else—be motivated by professional accountability. Their determination of what is legal, reasonable, justifiable, or moral must reflect both *institution and integrated* loyalties. Although the subordinates can, and should, always seek guidance from their superiors, their acquiescence should be based on reasoning and logical justification. This requires that the relationship between the subordinates and the superiors be enlightened and civil—one that is characterized by maturity not subservience, respect not fear, strength not feebleness, and optimism not dejection. If these characteristics are patiently cultivated within the agency's culture, both the subordinates and superiors will begin to appreciate the benefits of organizational identification, the institutional imperative of serving the public interest, before any other.

When *professional accountability* and *organizational identification* are nourished in any agency it would be only natural that criminal justice subordinates develop a philosophical conviction of justice and a dignified understanding of themselves as professionals. The more they learn, the more they will wish to better serve the public. As a result, the subordinates will develop the knowledge and the moral courage that enables them to support their superiors when they are right and to correct them when they are wrong. The superiors, in turn, should be able to see the institutional danger of *personal* loyalty to superiors and the wisdom to respond to their subordinates with *noblesse oblige*, a fundamental sentiment that emphasizes understanding, appreciation, and, above all, patience. Finally, with the growth of mutual trust between subordinates and superiors, subordinates may finally be able to see their superiors as role models, dedicated mentors, philosopher kings, and (when mutually agreeable) friends.

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